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APR 27 1995

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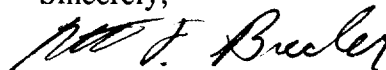
Mr. William A. Caton
Acting Secretary
Federal Communications Commission
Washington, DC 20554

Re: CC Docket No. 92-77 Billed Party Preference for 0+ InterLATA Calls

Dear Mr. Caton:

Transmitted herewith for filing on behalf of Digital Network Services, Inc., are an original and five copies of its reply comments on the Ex Parte Communication submitted in this proceeding by the Competitive Telecommunications Association, Bell Atlantic, BellSouth, US West, the American Public Communications Council, MFS Communications Company, and Teleport Communications Group. Those parties have proposed a rate ceiling alternative to billed party preference. If there are any questions regarding this filing, please communicate directly with the undersigned.

Sincerely,



Mitchell F. Brecher
Counsel for Digital Network Services, Inc.

Enclosures

8653-020

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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APR 27 1995

In the Matter of)

Billed Party Preference for)
0+ InterLATA Calls)

Disclosures by Operator)
Service Providers of)
Serving Public Telephones)

CC Docket No. 92-77

RM No. 8606

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REPLY COMMENTS OF DIGITAL NETWORK SERVICES, INC.

Digital Network Services, Inc. ("DNSI"), by its attorneys, hereby submits its reply comments in the above-captioned matter. DNSI is a active member of the Competitive Telecommunications Association (CompTel). As a CompTel member, DNSI is familiar with the proposal submitted to the Commission by CompTel and several other parties on March 8, 1995.¹ DNSI is generally supportive of CompTel policies and it endorses the objectives sought to be achieved by the rate ceiling proposal. However, as will be discussed in these reply comments, a ceiling on rates charged by interexchange carriers for interstate operator-assisted calls from public telephones may not in all circumstances properly reflect the unique cost characteristics applicable to certain types of operator-assisted services. Thus, if the Commission elects to implement a rate ceiling as has been proposed in this proceeding, it should be implemented in a manner which appropriately recognizes that certain services and certain means of providing service entail additional

¹ See Ex Parte Communication CC Docket No. 92-77 "Rate Ceiling Alternative to Billed Party Preference," filed March 8, 1995 by CompTel, Bell Atlantic, BellSouth, US West, the American Public Communications Council, MFS Communications Company, Inc., and Teleport Communications Group (hereinafter "Ex Parte Filing").

costs, and that carriers should not be encumbered or penalized for setting just and reasonable rates which must recover those additional costs.

DNSI is an interexchange carrier ("IXC") headquartered at DeSoto, Texas. It offers a variety of calling services -- intrastate, interstate, and international -- both to presubscribed customers, and to casual callers. Although it provides operator-assisted services, it does not market those services by attempting to be the presubscribed carrier from telephone aggregator locations. Thus, unlike the prototypical "operator service provider" or "OSP," DNSI's costs of service are not driven by commissions and other payments to premises owners or other third persons. Rather, its cost structure is impacted by other factors outside of its control, and having nothing to do with third party payments.

An important aspect of DNSI's service involves provision of operator-assisted services using a local exchange carrier-provided service called "0- Transfer." Many interexchange calls are initiated by a caller dialing the digit "0" and awaiting intervention by a local exchange carrier ("LEC") operator. Since the largest LECs -- the Bell Operating Companies ("BOCs") and the GTE Telephone Operating Companies ("GTE") do not offer interexchange (i.e., interLATA) services, their operators do not provide operator-assistance for interLATA calls. LEC operators may, however, offer to transfer a caller seeking to place an interLATA or foreign call who has accessed the LEC operator by dialing 0 to an interexchange carrier operator who, in turn, will arrange for billing and for completion of the call. These services are normally called 0- Transfer services. Certain LECs, including Southwestern Bell Telephone Company (a subsidiary of SBC Corporation) and GTE, offer such 0- Transfer services in territories where DNSI operates.

When a caller dials 0- and wishes to complete an interLATA call, the LEC operator either will invite the caller to select an IXC to have the call transferred to, or, if the caller does not express an IXC choice, the LEC operator will "offer" to transfer the

call to an IXC randomly selected from among a list of IXCs participating in 0- Transfer. In order to participate in 0- Transfer, an IXC must arrange for direct trunks between the IXC point of presence and each LEC operator tandem switch. In addition to the costs of acquiring and maintaining those trunking facilities, the LEC will charge the IXC a transfer charge (typically \$.30 to \$.35 per attempt) for each call transferred. The 0- Transfer charge is assessed to the IXC whether or not a call is completed, or a call attempt is even made.

DNSI, in conjunction with twenty-three independently-owned and operated carriers which concur in its tariff, provides service to consumers who access those carriers by means of LEC 0- Transfer service. The most frequent users of 0-Transfer service are callers with no telephone account of their own. Such callers have no preexisting relationship either with any LEC or with any IXC. In many cases, especially in the southwestern United States, those callers speak little or no English, and often do not know the area code or country code or city code (for international calls) needed to place and complete their calls. As a result, such callers require extensive assistance by DNSI operators once their calls have been transferred to DNSI using LEC 0- Transfer service.

As proposed in the CompTel *et al* rate ceiling proposal, rates for operator-assisted calls would be subject to a series of "maximum charges," which would range from \$3.75 for a one minute collect, calling card, or third party-billed call, to \$8.00 for a nine minute person-to-person call.² Tariffs containing rates which exceeded those "maximum charges" would have to be accompanied by cost support information, and would be subject to filing on 90 days' notice and suspensions of up to five months (the maximum suspension allowed by the Communications Act. See 47 U.S.C. § 204(a)(1)). During the

² Ex Parte filing at 8.

suspension period and perhaps even after expiration of the suspension, the rates would be subject to a rate investigation by the Commission.

The rate ceilings proposed in the Ex Parte filing would be inadequate to allow DNSI and other carriers to provide interexchange services to customers which reach their operator centers through 0- Transfer at rate levels which enable those carriers to recover their costs of providing service, including the 0- Transfer-related cost components. This is so because the costs of providing interexchange operator services through 0-Transfer differ from the costs normally associated with operator-assisted calling. On the one hand, DNSI's provision of service to customers which reach its operator center through LEC 0-Transfer does not involve payment of commissions, surcharges, or any other payments to premises owners, pay phone owners, aggregators, marketing agents, or any other third parties. Unlike many OSP-type services, 0- Transfer operator service rates are not driven by third party payments. On the other hand, LEC 0- Transfer tariff requirements, including those of Southwestern Bell, create the necessity of each IXC seeking to complete 0-Transfer calls having installed a separate trunk group to each LEC operator tandem location. As a result of this requirement, DNSI and its twenty-three concurring carriers must among them acquire not less than 720 trunks within Southwestern Bell territory alone. These trunks, which are subject to installation charges, as well as to monthly recurring charges irrespective of usage levels, are not needed for any purpose other than to receive 0- Transfer calls from LECs.

The requisite additional trunks are not the only additional costs incurred in provision of interexchange operator-assisted calling through 0- Transfer. Every 0- call transferred by a LEC operator to DNSI or to one of its concurring carriers is assessed a 0-Transfer charge by the LEC. In addition, DNSI incurs its own costs of providing operator assistance. Because the vast majority of 0- Transfer calls are completed on a collect call basis, and because of the unfamiliarity of many 0- Transfer callers with the provision of

telephone service, especially long distance operator-assisted service, and with the English language, each 0- Transfer call attempt involves considerably more DNSI operator time expended on assisting the caller than the average amount of time expended on operator assistance. In fact, DNSI has determined that each 0- Transfer call attempt handled by its operators involves at least one full minute of operator time -- considerably higher than the industry average for all operator-assisted calls.

Moreover, IXC handling of 0- Transfer calls is an expensive undertaking because of the atypically low call completion rate. Because most callers which reach DNSI via 0- Transfer service have no telephone or calling card account, calls must be sent collect or, in some cases, billed to a third number, subject to validation that the billed number is an active account capable of being billed. As a result, a large portion of the calls which reach DNSI's operator center for completion cannot be billed. Of the calls which can be billed, many are not completed. Less than one-half of the 0- Transfer call attempts result in completed calls. Yet, every single attempt is subject to the LEC 0- Transfer charge, network costs, access charges, and operator assistance time and costs.

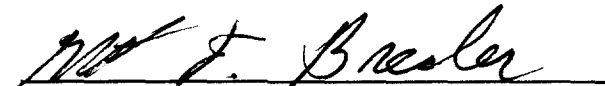
Because of these additional unavoidable costs associated with 0- Transfer service, DNSI has estimated, based on its actual costs of providing service, that the maximum rate for its 0- Transfer calls would have to exceed the maximum rate proposed in the Ex Parte Filing by \$2.55 per call and \$0.129 per minute merely to cover these extraordinary 0- Transfer costs. Yet without the willingness of DNSI or carriers similar to it to incur these costs and to provide operator-assistance for 0- Transfer callers, many callers without their own telephones, without calling cards or credit cards, and without the ability to communicate with English speaking-only operators, would be unable to complete operator-assisted calls. For such consumers, telephone service is simply not available.

By filing these reply comments, DNSI urges the Commission to recognize that no single set of rate ceilings will be appropriate in all cases; that different services entail

different costs; and that any rate ceiling approach considered by the Commission should have built in flexibility to accommodate those operator-assisted services which are subject to unusual, but unavoidable, costs. Underlying the rate ceiling proposal set forth in the Ex Parte filing is the notion that such rate ceilings will place downward pressure on third party payments, including commissions, and that it will refocus competition away from marketing to aggregators and toward serving consumers, as postulated by the Commission in the further notice of proposed rulemaking in this proceeding.³ However, DNSI respectfully urges the Commission to be mindful of the fact that there are certain cost components other than third party payments which increase the unavoidable costs of providing operator-assisted services, including, e.g., the additional costs of handling 0-Transfer calls, and that any plan for establishing a rate ceiling should recognize and accommodate such unavoidable costs.

Respectfully submitted,

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Mitchell F. Brecher

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April 27, 1995

³ Billed Party Preference for 0+ InterLATA Calls (*Further Notice of Proposed Rulemaking*), FCC 94-117, released June 6, 1994, at ¶ 9.

CERTIFICATE OF SERVICE

I, Mitchell F. Brecher, hereby certify that on this 27th day of April 1995, copies of the foregoing *Reply Comments of Digital Network Services, Inc.* were served by first class mail, postage prepaid, to the parties listed on the attached service list.



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Dated: April 24, 1995

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